IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 17786 of 2006

DATED: 28-8-2006

Between:

A.Srinivasulu petitioner

And

The Vice Chairman & Managing Director,
APSRTC,Musheerabad – Hyderabad and others Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 17786 of 2006

ORAL ORDER:

The petitioner is working as Driver with the respondents-APSRTC. While discharging his duties as driver, the second respondent herein directed him to attend periodical medical examination. Accordingly, the petitioner attended the periodical medical examination. The Medical Officer, APSRTC, Tarnaka, Hyderabad vide certificate dated 12.5.2006 declared the petitioner as medically unfit for the post of A-1 driver due to defective vision. The petitioner filed an appeal to the Chief Medical Officer, APSRTC, Tarnaka, Hyderabad. The Chief Medical Officer, vide letter dated 15.6.2006 declared the petitioner unfit for Driver post due to defective vision. The petitioner on 18.5.2006, made a representation to the authorities to provide alternative employment as per Section 47 of the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act 1 of 1995 (for short 'the Act'). Without considering the representation of the petitioner, impugned proceedings dated 26.7.2006 were issued advising the petitioner to submit a representation for retirement on medical grounds. Hence, the present writ petition.

Learned counsel for petitioner submitted that in terms of Section 47 of the Act, the respondents are under an obligation to provide alternative employment and placed reliance on judgment of this Court in N.Siva Kumar Vs. APSRTC, Musheerabad and others[1].

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

This Court in N.Siva Kumar's case considered similar issue and

directed the authorities to consider the case of the employee in the light of the provisions of the Act for alternative employment. The relevant portion reads as under;

> "Having regard to the fact that a right has been conferred upon the appellant herein under a statute, although the question raised herein has not been raised before the learned single Judge, we, in modification of the order passed by the learned single Judge, direct the appellant herein to file a representation, if not already filed, before the appropriate authority seeking the relief prayed for in this appeal, and on receipt of such a representation, the appropriate authority may consider the case of the appellant in the light of the aforementioned provisions and the decisions referred to hereinbefore, and pass an appropriate order at an early date, preferably within a period of four (4) weeks from the date of communication of this order."

In the present case, the representation dated 18.5.2006 made by the petitioner, seeking continuation in any alternative employment in terms of Section 47 of the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act 1 of 1995 (for short 'the Act'), is said to be pending consideration before respondent No.1. Hence, I deem it appropriate to dispose of the writ petition directing respondent No.1 to consider the representation of the petitioner dated 18.5.2006 and pass appropriate speaking orders in accordance with law particularly in the light of Section 47 of the Act, as expeditiously as possible, preferably within a period of three months from the date of receipt of copy of this order.

With the above direction, the writ petition is disposed of. No costs.

N.V. RAMANA, J.

Date: 28.8.2006

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[1] 2001 (3) ALD 166 (DB)